

Action

Final rule.

Summary

We are amending the Animal Welfare Act regulations to add requirements for contingency planning and training of personnel by research facilities and by dealers, exhibitors, intermediate handlers, and carriers. We are taking this action because we believe all licensees and registrants should develop a contingency plan for all animals regulated under the Animal Welfare Act in an effort to better prepare for potential disasters. This action will heighten the awareness of licensees and registrants regarding their responsibilities and help ensure a timely and appropriate response should an emergency or disaster occur.

Dates

Effective Date: January 30, 2013.

For Further Information Contact

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Regulatory Text**Part 2 Regulations**

1. The authority citation for part 2 continues to read as follows:

Authority:

7 U.S.C. 2131-2159; 7 CFR 2.22, 2.80, and 371.7.

2. Section 2.38 is amended by adding new paragraphs (i)(4) and (l) to read as follows:

§ 2.38 Miscellaneous.

* * * * *

(i) * * *

(4) The other person or premises must either be directly included in the research facility's contingency plan required under paragraph (l) of this section or must develop its own contingency plan in accordance with paragraph (l) of this section.

* * * * *

(l) Contingency planning. (1) Research facilities must develop, document, and follow an appropriate plan to provide for the humane handling, treatment, transportation, housing, and care of their animals in the event of an emergency or disaster (one which could reasonably be anticipated and expected to be detrimental to the good health and well-being of the animals in their possession). Such contingency plans must:

- (i) Identify situations the facility might experience that would trigger the need for the measures identified in a contingency plan to be put into action including, but not limited to, emergencies such as electrical outages, faulty HVAC systems, fires, and animal escapes, as well as natural disasters the facility is most likely to experience.
- (ii) Outline specific tasks required to be carried out in response to the identified emergencies or disasters including, but not limited to, detailed animal evacuation instructions or shelter-in-place instructions and provisions for providing backup sources of food and water as well as sanitation, ventilation, bedding, veterinary care, etc.;
- (iii) Identify a chain of command and who (by name or by position title) will be responsible for fulfilling these tasks; and
- (iv) Address how response and recovery will be handled in terms of materials, resources, and training needed.

(2) For current registrants, the contingency plan must be in place by July 29, 2013. For research facilities registered after this date, the contingency plan must be in place prior to conducting regulated activities. The plan must be reviewed by the research facility on at least an annual basis to ensure that it adequately addresses the criteria listed in paragraph (l)(1) of this section. Each registrant must maintain documentation of their annual reviews, including documenting any amendments or changes made to their plan since the previous year's review, such as changes made as a result of recently predicted, but historically unforeseen, circumstances (e.g., weather extremes). Contingency plans, as well as all annual review documentation and training records, must be made available to APHIS and any funding Federal agency representatives upon request. Facilities maintaining or otherwise handling marine mammals in captivity must also comply with the requirements of § 3.101(b) of this subchapter.

(3) The facility must provide and document participation in and successful completion of training for its personnel regarding their roles and responsibilities as outlined in the plan. For current registrants, training of facility personnel must be completed by September 27, 2013; for research facilities registered after July 29, 2013, training of facility personnel must be completed within 60 days of the facility putting its contingency plan in place. Employees hired 30 days or more before the contingency plan is put in place must also be trained by that date. For employees hired less than 30 days before that date or after that date, training must be conducted within 30 days of their start date. Any changes to the plan as a result of the annual review must be communicated to employees through training which must be conducted within 30 days of making the changes.

3. Section 2.102 is amended by adding new paragraphs (a)(4) and (b)(3) to read as follows:

§ 2.102 Holding facility.

(a) * * *

(4) The other person or premises must either be directly included in the dealer's or exhibitor's contingency plan required under § 2.134 or must develop its own contingency plan in accordance with § 2.134.

(b) * * *

(3) The other person or premises must either be directly included in the intermediate handler's contingency plan required under § 2.134 or must develop its own contingency plan in accordance with § 2.134.

4. A new section § 2.134 is added to read as follows:

§ 2.134 Contingency planning.

(a) Dealers, exhibitors, intermediate handlers, and carriers must develop, document, and follow an appropriate plan to provide for the humane handling, treatment, transportation, housing, and care of their animals in the event of an emergency or disaster (one which could reasonably be anticipated and expected to be detrimental to the good health and well-being of the animals in their possession). Such contingency plans must:

- (1) Identify situations the licensee or registrant might experience that would trigger the need for the measures identified in a contingency plan to be put into action including, but not limited to, emergencies such as electrical outages, faulty HVAC systems, fires, mechanical breakdowns, and animal escapes, as well as natural disasters most likely to be experienced;
- (2) Outline specific tasks required to be carried out in response to the identified emergencies or disasters including, but not limited to, detailed animal evacuation instructions or shelter-in-place instructions and provisions for providing backup sources of food and water as well as sanitation, ventilation, bedding, veterinary care, etc.;
- (3) Identify a chain of command and who (by name or by position title) will be responsible for fulfilling these tasks; and
- (4) Address how response and recovery will be handled in terms of materials, resources, and training needed.

(b) For current licensees and registrants, the contingency plan must be in place by July 29, 2013. For new dealers, exhibitors, intermediate handlers, and carriers licensed or registered after this date, the contingency plan must be in place prior to conducting regulated activities. The plan must be reviewed by the dealer, exhibitor, intermediate handler, or carrier on at least an annual basis to ensure that it adequately addresses the criteria listed in paragraph (a) of this section. Each licensee and registrant must maintain documentation of their annual reviews, including documenting any amendments or changes made to their plan since the previous year's review, such as changes made as a result of recently predicted, but historically unforeseen, circumstances (e.g., weather extremes). Contingency plans, as well as all annual review documentation and training records, must be made available to APHIS upon request. Traveling entities must carry a copy of their contingency plan with them at all times and make it available for APHIS inspection while in travel status. Dealers, exhibitors, intermediate handlers, and carriers maintaining or otherwise handling marine mammals in captivity must also comply with the requirements of § 3.101(b) of this subchapter.

(c) Dealers, exhibitors, intermediate handlers, and carriers must provide and document participation in and successful completion of training for personnel regarding their roles and responsibilities as outlined in the plan. For current licensees and registrants, training of dealer, exhibitor, intermediate handler, and carrier personnel must be completed by September 27, 2013. For new dealers, exhibitors, intermediate handlers, or carriers licensed or registered after July 29, 2013, training of personnel must be completed within 60 days of the dealer, exhibitor, intermediate handler, or carrier putting their contingency plan in place. Employees hired 30 days or more before their contingency plan is put in place must also be

trained by that date. For employees hired less than 30 days before that date or after that date, training must be conducted within 30 days of their start date. Any changes to the plan as a result of the annual review must be communicated to employees through training which must be conducted within 30 days of making the changes.

Part 3 Standards

5. The authority citation for part 3 continues to read as follows:

Authority:

7 U.S.C. 2131-2159; 7 CFR 2.22, 2.80, and 371.7.

6. In § 3.101, paragraph (b) is amended by adding a new sentence at the end of the paragraph to read as follows:

§ 3.101 Facilities, general.

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(b) * * * Facilities handling marine mammals must also comply with the requirements of § 2.134 of this subchapter.

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Done in Washington, DC, this 20th day of December 2012.

Rebecca Blue,

Deputy Under Secretary for Marketing and Regulatory Programs.

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